IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5889 OF 2005

Lailasha Landya Kale ...Applicant

vs.

State of Maharashtra ...Respondent

Mr.Vikas Shivarkar for the applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 21,2005

P.C.:

1. On the last date submissions of the Advocates for the parties were heard. This is an application for regular bail. The offence registered against the Applicant and the co-accused is under Sections 302, 363, 365, 342, 323, 504, 506 read with section 34 of the Indian Penal Code. The learned Advocate for the Applicant has invited my attention to the statements of various witnesses and submitted that no role is ascribed to the Applicant in the offence of kidnapping and offence of murder. He submitted that considering the fact that the age of the Applicant is 60 years, after completion of the investigation he is entitled to be enlarged on bail.

2. The learned A.P.P. pointed out that the role played by the Applicant. The learned A.P.P. pointed out that the complainant was kidnapped by the accused persons and was taken to the house of the Applicant and the incident of assault has

taken place in the house of the Applicant. The learned A.P.P. submitted that Section 34 of the I.P.C. has been applied. No case is made out for enlarging the Applicant on bail.

3. I have considered the submissions. F.I.R. is lodged by the deceased. As per the version of the complainant, the Applicant and the co-accused came by motor cycle came to his residence. The co-accused Salim picked up the deceased and he was made to sit on a motor cycle. He was made to sit in between the co-accused-Salim and the Applicant herein. His version is that he was taken to the house of the Applicant where an attempt was made to force him to execute a document on a stamp paper. The allegation is that the deceased refused to sign on the said stamp paper. The Applicant and the co-accused removed the clothes on his person and he was assaulted by co-accused Salim and Gondavnya. The allegation is that thereafter he was taken towards Kacheri and was thrown in front of a truck. The learned Advocate for the Applicant invited my attention to the statement of another witnesses who has alleged that the Applicant and the co-accused had kidnapped the said witness at the same time and the said witness saw the deceased. The Advocate for the Applicant pointed out that the deceased in his statement has not disclosed the fact that one more person was kidnapped by the Applicant.

4. P.M.Notes show that there were injuries to the private part of the deceased. It is true that the allegation of actual assault on the deceased is not against the Applicant. However, the allegation is that the Applicant has actually participated in the offence of kidnapping and in fact the deceased was made to sit on a motor cycle between the co-accused Salim and the Applicant. The deceased was taken to the house of the Applicant wherein the incident of brutal assault on the deceased has allegedly taken place. The allegation is that the Applicant was present through out. The allegation of the prosecution is that thereafter an attempt was made to throw the deceased before the truck by the accused persons with a view to destroy the evidence.

5. Considering the statements of witnesses and material on record, prima facie involvement of the Applicant is clearly reflected. It is pertinent to note that Section 34 of the Indian Penal Code has been applied.

6. No case is made out for enlarging the Applicant on bail. Application is rejected. However, considering the age of the Applicant, trial is expedited.

JUDGE